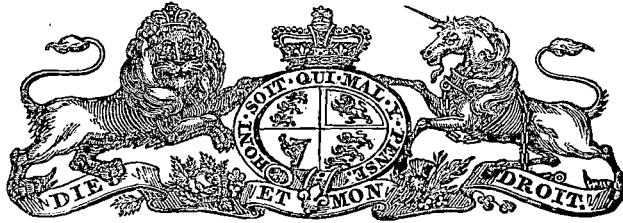


(No. 65.)



1857.

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T A S M A N I A.

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P E T I T I O N.

FROM THE HON. F. BURGESS, ESQ.

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Presented by Mr. J. C. Gregson, and ordered by the House to be printed,  
18 December, 1857.



*To the Honourable the Speaker and House of Assembly, in Parliament Assembled.*

The humble Petition of Francis Burgess.

RESPECTFULLY SHOWETH :

THAT your Petitioner formerly held a Commission in Her Majesty's 54th Regiment ; and was employed in 1813 and 1814 in all the operations of the Army in Holland and Brabant, under Lieutenant-General Sir Thomas Graham (Lord Lynedoch) ; and in Flanders and in France in 1815, under the Duke of Wellington, and is a Waterloo man.

Your Petitioner was placed on half-pay on the reduction consequent upon the Peace in 1817 ; and subsequently entered himself as a Member of the Honourable Society of the Middle Temple, London.

Your Petitioner was called to the Bar in May 1835, and joined the Midland Circuit. In 1837 he was appointed by Mr. Justice Allan Parke, the Senior Judge of the Summer Circuit, as one of the Revising Barristers for Northern Northamptonshire and the City of Peterborough ; to the same office in 1838, by Chief Justice Sir Nicholas Tindal ; and again in 1839, by the Chief Baron Lord Abinger. His practice on the Circuit and at Sessions was not inconsiderable ; and he was in the receipt of a fixed income as a Law Reporter on the Equity side of the Exchequer.

In September 1839, at the nomination of Lord John Russell, then Secretary of State for the Home Department, your Petitioner was appointed by Her Majesty as Chief Commissioner of Police for the Borough of Birmingham, under the provisions of a Special Act of Parliament, which remained in force for three years, and was not renewed.

Your Petitioner is in possession of Addresses and Testimonials which will show that in the face of many difficulties and perils, arising from the disturbed state of trade, and threatened insurrections on the part of numerous Chartist Bodies, your Petitioner discharged the duties of his appointment to the entire satisfaction of the Government, as well as of the Local Authorities ; and in such a manner as to secure the good will and esteem of all parties—even of those who were the strongest opponents to the passing of the Bill.

On the expiry of the above Commission, October 1842, your Petitioner resumed the practice of his profession ; and in May, 1843, without any previous solicitation on his own part, was invited by Lord Stanley to fill the appointment of Chief Police Magistrate of this Territory in succession to Captain Forster.

Your Petitioner, being influenced by the consideration that the appointment would be of a permanent character, was induced to accept it,—abandoned all his professional prospects in England—sold his property at a sacrifice—and sank a large sum of money in the outfit and passage of himself and his family to the Colony.

Your Petitioner's appointment was by Royal Warrant, dated 11th May, 1843, directing Letters Patent to be issued here, conferring upon him all the rights, privileges, and appurtenances attached to the office, in which he was to continue during Her Majesty's pleasure. By virtue of his office your Petitioner was also a Member of the Executive Council ; and continued to act as such until the establishment of Responsible Government.

The circumstances of the Colony at the time of your Petitioner's arrival, and for several years afterwards, were such as to render his appointment one of great responsibility and labour, and to demand the employment of his whole energies; and your Petitioner can conscientiously affirm that he has zealously and earnestly endeavoured to give satisfaction in the discharge of his duties.

In the year 1855, in order to diminish the expense of the Department, your Petitioner voluntarily undertook the additional duties of Bench Magistrate in Hobart Town; and he has on every occasion manifested his readiness to assist the Government to the best of his ability and judgment.

It will be in the recollection of the House that during the last Session of Parliament a Bill was introduced to abolish the office of Chief Police Magistrate, and to transfer the duties vested in him by law to other officers. Your Petitioner protested, through the head of the Government, against the passing of such Bill, as an infringement of the rights and privileges which Her Majesty's Commission conferred upon him; and, in reply, was informed, "*that he would be no pecuniary loser by the Act becoming Law.*"

*Notwithstanding this assurance—notwithstanding that the Legislative Council had refused to abolish the office*—your Petitioner was suddenly apprised, on the 24th of June last, by the Honourable the Colonial Secretary, that the Governor with the advice of the Executive Council had determined upon his immediate reduction, on the ground that additional duties were about to be imposed upon the Police Magistrate of Hobart Town, for the performance of which your Petitioner was considered to be unfit at his advanced time of life. Your Petitioner was further informed that he would receive compensation for the loss of office on a scale which had been sanctioned by Parliament.

Your Petitioner, in reply to this communication, signified his readiness to undertake the additional duties in question—for the performance of which he felt that he was neither disqualified by age nor infirmities, and certainly not by want of legal acquirements; and urged his claim to be allowed a trial under the proposed new arrangements of the Police Department, before so extreme a measure as that contemplated by the Government was finally carried out.

Your Petitioner further protested against the Government rendering Her Majesty's Letters Patent nugatory, by removing him from office altogether, and appointing a junior officer to discharge his duties while your Petitioner was on the spot to perform them.

The Government, however, declined to reconsider your Petitioner's claims; and, at scarcely more than one month's notice, deprived him of his office and its emoluments.

Your Petitioner, therefore, has no alternative but to bring his case under the attention of your Honourable House.

He respectfully submits for their consideration, that the Government are not justifiable in moving him from an office to which he had been appointed *directly* by Her Majesty, and in placing a junior officer in his stead, under the circumstances already detailed, until a fair opportunity had been afforded of testing your Petitioner's ability for the performance of the additional public duties proposed to be attached to the office of Police Magistrate of Hobart Town.

Your Petitioner brings these facts under the notice of your Honourable House, and prays that they will be pleased to take them into their consideration, in such manner as may secure to your Petitioner that justice which he feels has been denied him.

And your Petitioner, as in duty bound, will ever pray.

FRAS. BURGESS.

*New Town, 17th December, 1857.*